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8  
**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

9 In re:

10 MUSCLEPHARM CORPORATION,

11 Debtor.

Case No. 22-14422-NMC

Chapter 11

Hearing Date: May 25, 2023 at 10:00 a.m.

12  
**COMMITTEE'S STATEMENT OF POSITION REGARDING PENDING TRUSTEE**  
**MOTION AND DISCOVERY RELATED THERETO**

13  
 14 The Official Committee of Unsecured Creditors of MusclePharm Corporation offers the  
 15 following Statement of Position in response to the invitation contained in the *Court's Order Regarding*  
 16 *(1) Ex Parte Application for Order Shortening Time to Hear Emergency Motion to Enforce*  
 17 *Intercreditor and Subordination Agreement Under Section 510(a) of the Bankruptcy Code [ECF No.*  
 18 *509] and (II) Motion for the Appointment of a Chapter 11 Trustee [ECF No. 447] and Setting Hearings*  
 19 *[Docket No. 513]:*

20 Based on what the Committee knows today (including the testimony gleaned from the Debtor's  
 21 in-person deposition on Monday, May 22, 2023), the Committee does not believe the necessary factual  
 22 predicate for the appointment of a chapter 11 trustee exists in this case. Most importantly, full  
 23 prosecution and defense of the trustee motion (and especially the discovery attendant thereto) would  
 24 be extremely expensive and wasteful.

25 The parties are already well into a plan process. That plan will only be approved by the Court  
 26 if it (a) garners the necessary votes, (b) does not discriminate unfairly, and (c) is fair and equitable to  
 27 all classes of creditors. For this reason, the plan proponents have every motivation to put forward a  
 28 good and fair plan that would obviate the need for another professional fiduciary in this case.

Finally, the appointment of a chapter 11 trustee would be an event of default under the existing DIP facility and, therefore, would result in the almost immediate conversion of this case to one under chapter 7 of the Bankruptcy Code. At that moment, going concern value would be irretrievably lost.

For all the foregoing reasons, the Committee urges the Court to put the trustee motion on a timeline that causes it to trail the plan process, while at the same time avoiding the unnecessary expense of further discovery in pursuit of a remedy that is neither warranted nor beneficial.

Dated: May 23, 2023

## LARSON & ZIRZOW LLC

/s/ Matthew C. Zirzow

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